IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(*Special Original Jurisdiction*)

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TUESDAY, THE EIGHTEENTH DAY OF APRIL

TWO THOUSAND AND SIX

P R E S E N T

THE HON'BLE SRI JUSTICE V.ESWARAIAH

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WP.No.7646 OF 2006

Between:

Panyam Dudekula Hussaini

S/o. late Hasan, aged about 57 years,

Sarpanch, Kanala Gram Panchayat,

Nandyal Mandal,

Kurnool district. … Petitioner

Versus

The Panchayat Secretary,

Kanala Gram Panchayat,

Nandyal Mandal,

Kurnool district & Ors. … Respondents

Counsel for the Petitioner: Sri P.Veera Reddy

Counsel for the Respondents: GP for Panchayat Raj &

Rural Development

K.Upender Reddy,

SC for Panchayat Raj

O R D E R :

The petitioner is an elected sarpanch of Kanala Gram Panchayat of Nandyal Mandal, Kurnool district, in the elections held in the month of August, 2001.

While so, as per the orders of the District Collector, (Panchayat Raj), the District Panchayat Officer, while issuing a show cause notice dated 20-2-2006 as to why appropriate action shall not be taken against the petitioner prohibiting the petitioner from drawing the money of the Gram Panchayat for such period. An interim direction not to draw the money of the Gram Panchayat was also passed.

Aggrieved by the Proceedings dated 20-2-2006 passed in ROC.No.85/PTS/A6/2006 by the District Collector, (Panchayat Raj), the petitioner filed WP.No.3783 of 2006 on the ground

that under Rule 42 (1) of the Rules relating to Certain Taxes and Other Lodging of Moneys Received by the Gram Panchayat and Payment of Money from the Gram Panchayat Fund made in G.O.Ms.No.30, P.R. RD & R, dated 20-1-1995, the District Panchayat Officer alone is competent to pass order and the District Collector (Panchayat Raj) being the appellate authority, the said order was illegal and unsustainable and accordingly the said writ petition was allowed setting aside the order passed by the District Collector (Panchayat Raj). However, it was observed that the District Panchayat Officer is entitled to take appropriate action in accordance with law. Thereafter, the earlier order dated 20-2-2006 was cancelled but by separate order, the District Panchayat Officer similar to the earlier proceedings dated 04-04-2006 issued a show cause notice as to why the petitioner shall not be prohibited from drawing the money and pending further orders the petitioner was also directed not to draw the money of the Gram Panchayat Funds.

The learned counsel appearing for the petitioner submits that as per Rule 42 of the Rules, the District Panchayat Officer directed not to draw the money of the Gram Panchayat pending exercise of his powers prohibiting him from drawing the cheque power but he cannot remove the cheque powers temporarily.

I am of the opinion that removing the cheque powers temporarily there is no difference from that of the direction to the sarpanch not to draw the money of the Gram Panchayat, pending passing of prohibition orders.

It is further stated that the Upa-Sarpanch cannot be allowed to sign on the cheques along with the signature of the Divisional Panchayat Officer to withdraw the funds of the Gram Panchayat, viz., EFC, SFC and SGRY funds.

When the District Panchayat Officer has got the powers to prohibit the sarpanch from drawing the money and also granted interim direction not to draw the money, he can as well impose condition to draw money, pending finalizatuion of the proceedings jointly by the Divisional Panchayat Officer as signatory of Upa-Sarpanch. Therefore, I am of the opinion that the said order is not contrary to law, as development of Gram Panchayat cannot be stalled merely because certain proceedings are pending against the sarpanch, granting interim direction not to draw the money of the Gram Panchayat.

In view of the aforesaid facts and circumstances, I do not see any infirmity in the said order. However, pursuant to the show cause notice, if no explanation is filed so far, the petitioner is permitted to submit his explanation within one week from the date of receipt of a copy of this order, and if such explanation is filed, the same shall be considered by the District Panchayat Officer, Kurnool and pass appropriate order on merits and in accordance with law, within three weeks thereafter.

The writ petition is accordingly disposed of at the admission stage. No costs.

APRIL 18th, 2006. ----------

I s L. V. ESWARAIAH , J.